

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

COMMODITY SPECIALISTS COMPANY	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Case No. 4:13-CV-27
	§	(Judge Clark/Judge Mazzant)
DIRK VEREECKEN D/B/A VEREECKEN	§	
DAIRY A/K/A THE UDDER DAIRY	§	
	§	
<i>Defendant.</i>	§	

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On August 22, 2013, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Plaintiff's Motion for Entry of Default Judgment Pursuant to Federal Rule of Civil Procedure 55(B) [Doc. #14] be granted.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court.

It is, therefore, **ORDERED** that Plaintiff's Motion for Entry of Default Judgment Pursuant to Federal Rule of Civil Procedure 55(B) [Doc. #14] is **GRANTED**.

It is further **ORDERED** that:

1. The Court has jurisdiction over the parties and subject matter, and venue is proper in this Court.
2. The Summons and Complaint were served on Defendant by personal service.
3. Plaintiff has certified to personal jurisdiction and service of process and that the Defendant is not an infant, incompetent person, in active military service of the United States of America or its officers or agents.
4. Defendant failed to answer or otherwise defend, as provided by the Federal Rules of Civil Procedure, following proper service.
5. Default against Defendant was duly entered by the Clerk of this Court on June 12, 2013.
6. The time permitted to file an Answer pursuant to Fed. R. Civ. P. 12(a)(1)(A) has expired and therefore Defendant is deemed to have admitted by default all the factual allegations in Plaintiff's Original Complaint. Fed. R. Civ. P. 8(b)(6).
7. Upon consideration of the Motion, the accompanying brief and evidence, the pleadings on file and the relevant authorities, the Court concludes that Plaintiff has established that Defendant is liable for suit on a sworn account, breach of contract, unjust enrichment and fraud.
8. The allegations in Plaintiff's Original Complaint are deemed admitted against Defendant.
9. The amount claimed is a sum certain in the amount of \$137,216.52.

Judgment is entered in favor of Plaintiff in the amount of \$137,216.52, plus costs, and Plaintiff is awarded attorneys' fees in the amount of \$15,000 as well as pre-judgment and post-judgment interest.

All relief not previously granted is **DENIED**.

The Clerk is directed to **CLOSE** this civil action.

So **ORDERED** and **SIGNED** this **18** day of **October, 2013**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge